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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/811,387  | 03/29/2004  | Takeshi Funahashi    | Q80738              | 3077             |
| 23373   | 7590        | 10/30/2007           | EXAMINER            |                  |
| SUGHRUE MION, PLLC<br>2100 PENNSYLVANIA AVENUE, N.W.<br>SUITE 800<br>WASHINGTON, DC 20037 |             |                      | LOUIE, OSCAR A      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2136                |                  |
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|   |             |                      | 10/30/2007          | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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|------------------------------|-----------------------------------|-------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>            | <b>Applicant(s)</b>     |  |
|                              | 10/811,387                        | FUNAHASHI, TAKESHI      |  |
|                              | <b>Examiner</b><br>Oscar A. Louie | <b>Art Unit</b><br>2136 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 August 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 04/07.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This second non-final action is in response to the amendment filed 08/20/2007. In light of the applicant's amendments and arguments, the examiner hereby withdraws his 35 U.S.C. 112 6<sup>th</sup> paragraph rejection in regards to Claims 1 & 4-8 and withdraws his objections to the drawings and specification. Claims 1-10 are pending and have been considered as follows.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Koo et al. (US-6874085-B1).

Claim 1:

Koo et al. disclose an image sending device having a sending means for sending a medical image, to which supplementary information including patient privacy information is attached, to an external device comprising,

- “a separating means for separating the medical image into the supplementary information and an image body” (i.e. “The medical record 10 is assigned by the computer program an

- identification code 23, which is concatenated at 22 with both the personal data portion of the record 12 and the medical data portion of the record 14, resulting in modified portions respectively 24 and 26") [column 4 lines 34-38];
- “a transmission control means for controlling the sending means so that the sending means sends the supplementary information using a higher security transmission method compared to a transmission method for sending the image body” (i.e. “The clinic computer system, 20, needs therefore to include software and hardware, for example web server 37, necessary to interact with the network (as would be known by one of skill in the art). A standard encryption scheme, such as 128-bit secure socket layer (SSL 128-bit) can be used during transmission to double encrypt the personal data portion 40 to ensure security for transmission”) [column 5 lines 39-45].

Claim 2:

Koo et al. disclose an image sending device having a sending means for sending a medical image, to which supplementary information including patient privacy information is attached, to an external device, as in Claim 1 above, further comprising,

- “the higher security transmission method is a transmission method that encrypts the supplementary information using a more sophisticated encryption method compared to an encryption method for encrypting the image body” (i.e. “the medical data portion may also be encrypted, typically using a less secure but faster encryption method than is used to encrypt the personal data portion, so that the performance advantage is maintained”) [column 5 lines 26-29].

Claim 3:

Koo et al. disclose an image sending device having a sending means for sending a medical image, to which supplementary information including patient privacy information is attached, to an external device, as in Claim 1 above, further comprising,

- “the higher security transmission method is a transmission method for sending the supplementary information using a higher security communication circuit compared to a communication circuit for sending the image body” (i.e. “the medical data portion may also be encrypted, typically using a less secure but faster encryption method than is used to encrypt the personal data portion, so that the performance advantage is maintained”)  
[column 5 lines 26-29].

Claim 4:

Koo et al. disclose an image sending device having a sending means for sending a medical image, to which supplementary information including patient privacy information is attached, to an external device, as in Claim 1 above, further comprising,

- “a selection accepting means for accepting a selection of a first transmission method that encrypts the supplementary information using a more sophisticated encryption method compared to an encryption method for encrypting the image body and/or a second transmission method for sending the supplementary information using a higher security communication circuit compared to a communication circuit for sending the image body as the high security transmission method” (i.e. “The clinic computer system, 20, needs therefore to include software and hardware, for example web server 37, necessary to interact with the network (as would be known by one of skill in the art). A standard

encryption scheme, such as 128-bit secure socket layer (SSL 128-bit) can be used during transmission to double encrypt the personal data portion 40 to ensure security for transmission") [column 5 lines 39-45];

- “the transmission control means controls the sending means so that the sending means sends the supplementary information using the transmission method which has been accepted by the selection accepting means” (i.e. “The clinic computer system, 20, needs therefore to include software and hardware, for example web server 37, necessary to interact with the network (as would be known by one of skill in the art). A standard encryption scheme, such as 128-bit secure socket layer (SSL 128-bit) can be used during transmission to double encrypt the personal data portion 40 to ensure security for transmission”) [column 5 lines 39-45].

Claim 9:

Koo et al. disclose an image sending device having a sending means for sending a medical image, to which supplementary information including patient privacy information is attached, to an external device, as in Claim 1 above, further comprising,

- “a selection accepting means for accepting a selection of a first transmission method that encrypts the supplementary information using a more sophisticated encryption method compared to an encryption method for encrypting the image body and/or a second transmission method for sending the supplementary information using a higher security communication circuit compared to a communication circuit for sending the image body as the high security transmission method” (i.e. “The clinic computer system, 20, needs therefore to include software and hardware, for example web server 37, necessary to

interact with the network (as would be known by one of skill in the art). A standard encryption scheme, such as 128-bit secure socket layer (SSL 128-bit) can be used during transmission to double encrypt the personal data portion 40 to ensure security for transmission") [column 5 lines 39-45].

Claim 5:

Koo et al. disclose an image receiving device comprising,

- “a receiving means for receiving the supplementary information and the image body which have been sent by the image sending device” (i.e. “The remote computer system 50 can be, for instance, a centralized storage facility used to store records from many clinics or a computer system at another clinic, which uses the present method to securely transfer and store records for patients moving to or being seen by a physician at the other clinic”) [column 6 lines 16-21];
- “an associating means for associating the supplementary information with the image body” (i.e. “The medical record 10 is assigned by the computer program an identification code 23, which is concatenated at 22 with both the personal data portion of the record 12 and the medical data portion of the record 14, resulting in modified portions respectively 24 and 26”) [column 4 lines 34-38].

**Claim 6:**

Koo et al. disclose an image sending device having a sending means for sending a medical image, to which supplementary information including patient privacy information is attached, to an external device comprising,

- “a separating means for separating the medical image into the supplementary information and an image body” (i.e. “The medical record 10 is assigned by the computer program an identification code 23, which is concatenated at 22 with both the personal data portion of the record 12 and the medical data portion of the record 14, resulting in modified portions respectively 24 and 26”) [column 4 lines 34-38];
- “a transmission control means for controlling the sending means so that the sending means sends only the image body” (i.e. “The medical data portion 32 is also transferred at 44 from the clinic computer 20 over a data network to the remote computer system 50”) [column 5 lines 48-50].

**Claim 7:**

Koo et al. disclose an image sending device having a sending means for sending a medical image, to which supplementary information including patient privacy information is attached, to an external device, as in Claim 6 above, further comprising,

- “a recording means for recording the supplementary information in a recording medium” (i.e. “In one embodiment, the encrypted personal data portion 36 and medical data portion 32 are stored locally in the data storage of the clinic computer system, 20, in, for instance, a conventional relational database structure”) [column 5 lines 29-32].

**Claim 8:**

Koo et al. disclose an image sending device having a sending means for sending a medical image, to which supplementary information including patient privacy information is attached, to an external device, as in Claim 6 above, further comprising,

- “a print-out means for printing out the supplementary information” (i.e. “The user can then view 70 the plain text medical record via the Internet browser, typically by secure transmission, e.g. using SSL-128 bit encryption”) [column 7 lines 16-19].

**Claim 10:**

Koo et al. disclose an image sending device having a sending means for sending a medical image, to which supplementary information including patient privacy information is attached, to an external device comprising,

- “a separating means for separating the medical image into the supplementary information and an image body” (i.e. “The medical record 10 is assigned by the computer program an identification code 23, which is concatenated at 22 with both the personal data portion of the record 12 and the medical data portion of the record 14, resulting in modified portions respectively 24 and 26”) [column 4 lines 34-38];
- “wherein the patient privacy information is a patient ID” (i.e. “Data 12 relating to the personal identity of the patient includes, e.g., the patient’s name, address, social security number, insurance numbers, date of birth, and other information used to identify the patient”) [column 4 lines 15-19];

- “the image body is an image frame of one of a computed radiography (CR) device, a magnetic resonance imaging (MRI) device, or a computer tomography (CT) device” (i.e. “A referral letter is, therefore, a medical record that can be secured by the present method. Likewise, a test result, for instance a digitized image from an X-ray or an MRI, will also have information to identify the patient and can be securely transmitted and stored using the present method”) [column 8 lines 55-60];
- “the patient privacy information further comprises diagnosis information” (i.e. “Data 14 relating to the patient’s medical history includes, e.g., name of physician, date of office visit, tests run and test results, diagnoses, prescriptions, and other information relating to the medical condition of the patient”) [column 4 lines 19-22].

***Conclusion***

3. Applicant’s arguments, see pages 9 & 10, filed 08/20/2007, with respect to the rejection(s) of claim(s) 1 & 5 under 35 U.S.C. 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Koo et al. (US-6874085-B1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Oscar Louie whose telephone number is 571-270-1684. The examiner can normally be reached Monday through Thursday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Nasser Moazzami, can be reached at 571-272-4195. The fax phone number for Formal or Official faxes to Technology Center 2100 is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OAL  
10/25/2007

Nasser Moazzami  
Supervisory Patent Examiner

  
10,26,07